

CHAPTER 74 (Revised 9/7/04)

RESPONSIBILITIES OF OFFICERS AND EMPLOYEES

Sections:

1. Conduct in office; investigations.
2. Oath.
3. Delivery of office.
4. Reports.
5. Resignation.
6. Conflict of interest.

**Section 1. Conduct in office; investigation.**

The mayor, manager, or member of the governing body, or any authorized persons or committee shall have the power to inquire into the conduct of any office, department, officer, or employee of the municipality and to make investigations into municipal affairs and require that books, papers, and other evidence be made available for inspection. Failure to obey such orders to provide books or other documents or evidence may constitute grounds for the immediate discharge or suspension of any officer or employee in accordance with the municipality's personnel policies, applicable law, or codes of conduct.

**Section 2. Oath.**

All elected officials and permanent employees of the municipality shall before entering upon the duties of their office, individually take an oath in writing to honestly, faithfully, and impartially perform and discharge the duties of his or her office and trust. This oath shall be filed with the municipal clerk.

**Section 3. Delivery of office.**

Whenever an officer, appointed official, or employee leaves office or employment for any reason, he or she shall promptly deliver to his or her successor in office or to the mayor, manager, or other municipal official all municipal property, including books, working papers, records, money, equipment, and effects, that are in his or her custody, possession, or control.

**Section 4. Reports.**

Every department head shall make a monthly report to the governing body of the activities of the department for the preceding month and present a calendar of activities for the upcoming month. Subject to approval of the mayor or manager, the department head may appoint someone familiar with the activities of the department to prepare and make the monthly report or the department head may submit a written report and calendar to the mayor or manager in advance of the meeting. Such monthly report shall include a report on the department's finances.

**Section 5. Resignation.**

Resignations of municipal officers and appointed officials shall be made in writing and filed with the clerk. The clerk shall immediately notify the mayor or manager and governing body. Appointed employees shall follow the resignation procedures in the city's personnel policies.

**Section 6. Conflicts of interest.**

A. Prohibitions.

1. No elected official, appointed municipal officer, or municipal employee shall use his or her office or official position for the primary purpose of obtaining financial gain for him or her self or his or her

- spouse, child, mother, father or business with which he or she is associated or owns stock.
2. No elected official (except in the case of a member of the governing body where the presiding officer or governing body rule otherwise as provided in Subsection (C) of this section), appointed municipal officer, or municipal employee shall participate in any official action in which he or she has a substantial financial interest. Prohibited participation includes voting as a member of the governing body, taking part in debate, soliciting the vote of a member of the governing body, or encouraging any municipal official or officer to act in a certain way.
  3. No elected official, appointed municipal officer, or municipal employee may accept from any other elected official, appointed municipal officer, or municipal employee, or any other person, money, gifts, promises of future benefits, or any other thing of value, for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not prohibit any person from accepting an award or bonus authorized by the governing body to be given for meritorious service.
  4. No elected official, appointed municipal officer, or municipal employee, and no other person shall give or offer to give money, gifts, promises of future benefits, or any other thing of value to any elected official, appointed municipal officer, or municipal employee for performing any function or service that is a normal part of his or her duties, or in exchange for voting or acting in any particular way on any matter that comes before him or her in the course of his or her duties. This subsection does not prohibit any person from voting for or participating in granting an award or bonus authorized by the governing body to be given for meritorious service.

B. Financial interests which may be conflicts of interest.

The following is a list of examples of financial interests substantial enough that any member of the governing body, appointed officer, or municipal employee who falls under any of the categories listed below should not vote or act on. The categories below are not meant to be a complete listing of all possible conflicts of interest. Any instances not covered below should come before the governing body for a vote as the individual matters arise. A member of the governing body, appointed officer, or municipal employee should abstain from voting or refrain from acting if:

1. He or she (or a member of his or her immediate family) individually, jointly, or in partnership with another has an interest in land or buildings, other than his or her residence, which will be affected by the vote or action.
2. He or she (or a member of his or her immediate family) is party to or beneficiary of a contract for a sum of \$1,000 or more that will be affected by the vote or action.
3. He or she (or a member of his or her immediate family) is individually, jointly, or in partnership with another the owner of a business, or has an interest in a business of \$1,000 or more that will be affected by the vote or action.
4. He or she (or a member of his or her immediate family) is a member of a board of directors or governing body or an officer of, or holds a management position with an organization that has financial dealings of \$1,000 or more with the municipality that will be affected by his or her vote or action.

C. Conflicts of interest and disclosure.

1. Each member of the governing body shall disclose any financial interest he or she may have in any matter that has come before the governing body for a vote. If the member believes that the financial interest is substantial, he or she shall ask to be excused from voting on the matter.
2. The mayor shall rule on the request of a member of the governing body to be excused from voting on a matter in which the member has or believes he or she has a substantial financial interest, unless the mayor is the member making the request or has the same or a similar or related financial interest in the same matter, in which case the governing body shall designate another council member who has no financial interest in the matter to rule on the request.
3. The decision of the mayor (or designated Member of the governing body) on the member's request to be

excused from voting may be overridden by a majority vote of the governing body. Neither the council member making the request, nor any other council member who has disclosed a similar or related interest in the same matter, may rule on any member's request to be excused from voting on the matter or vote on the question of overriding such a ruling.

4. If any resident of the municipality believes that a member of the governing body may have an undisclosed conflict of interest, the resident may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other member of the governing body chosen by the resident requesting the meeting) and the council member who may have a conflict of interest. If, as a result of the confidential meeting, the member of the governing body with the potential conflict or the mayor decides that the financial interest must be disclosed to the governing body, the member of the governing body shall disclose the interest to the governing body as provided in Subsection C(2) above.
5. A member of the governing body who has a substantial financial interest in a matter before the governing body, and who has been excused from voting on that matter, may not participate as a council member in the debate on the matter, although he or she may participate in discussion to the same extent as a member of the general public. If the matter is discussed by the governing body in executive session, the member shall be excluded during the executive session.
6. If a conflict of interest is discovered after an official action has been undertaken or completed the governing body may by a majority vote, excluding the vote of any affected member, resolve to rescind the official action or to take any other remedial steps necessary.

D. Conflicts of interest and disclosure; municipal officers and employees.

1. Each municipal officer and employee shall disclose any financial interest he or she may have in any matter that has come before the officer or employee for action in the course of his or her duties. If either the officer or employee making the disclosure, the mayor, or a majority of the members of the governing body conclude that the financial interest in question is substantial, then the officer or employee shall not act or participate in taking action on the matter.
2. Any resident of the municipality who thinks that a municipal officer or employee may have an undisclosed conflict of interest may request a confidential meeting with the mayor (or, in the event that a claimed potential conflict of interest involves the mayor, any other member of the governing body chosen by the resident requesting the meeting) and the officer or employee who may have a conflict of interest. If, as a result of the confidential meeting, the officer or employee with the potential conflict concludes that he or she should refrain from acting on the matter, or the mayor (or other chosen member of the governing body) directs the officer or employee to refrain from acting on the matter, all proceedings of the meeting with the resident and the mayor (or other chosen council member) will remain confidential. If neither the officer or employee nor the mayor (or other chosen member of the governing body) decides that the officer or employee must refrain from acting, the resident may request the governing body to consider the matter at its next regular meeting.

E. Violations.

1. Any member of the governing body, municipal officer, or employee who violates this chapter by knowingly refusing to disclose a financial interest as required by this section may be removed permanently or suspended from the governing body or from his or her municipal office or employment. Such removal or suspension shall be made upon a two-thirds majority vote of the governing body. Any suspension shall be for a period of up to ninety days.
2. Any person who willfully violates any provision of Subsection A. shall be guilty of an infraction.
3. Any member of the governing body or appointed municipal officer who willfully violates any provision of Subsection A. shall be deemed to have violated his or her oath of office and may be subject to immediate removal from office by two-thirds vote of the governing body. Any willful violation of any provision of Subsection B. by any municipal employee may be cause for immediate dismissal from employment.
4. No member of the governing body may vote on any question of his or her own suspension or discharge.